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OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Meredith T. Raney, Jr.,

Petitioner,

v.

Allstate Insurance Company, Allstate Floridian Insurance Company, Ocala Women's Center, Inc., Aware Woman Center For Choice, Inc., Edward W. Windle, Jr., Patricia Baird Windle, James S. Pendergraft,M.D., and Manhattan Magnolia, Corp.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

---

PETITION FOR WRIT OF CERTIORARI

Christopher F. Sapp
Petitioner's Counsel of Record
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(321) 268-8758

QUESTION PRESENTED

Since the potential for historic embarrassment to a United States Court of Appeals for its unwitting role in the September 11 attacks precludes even the appearance of impartiality by that Court in the present appeal, should the United States Supreme Court review this case ?

PARTIES TO THE PROCEEDING

"Petitioner"

Meredith T. Raney, Jr.

"Respondents"

Allstate Insurance Company, Allstate Floridian Insurance Company, Ocala Women's Center, Inc., Aware Woman Center For Choice, Inc., Edward W. Windle, Jr., Patricia Baird Windle, James S. Pendergraft, M.D., and Manhattan Magnolia Corp.

CORPORATE DISCLOSURE STATEMENT

Petitioner knows of no parent corporations or any publicly held company that owns 10 % or more of the stock of Allstate Insurance Company, Allstate Floridian Insurance Company, Ocala Women's Center, Inc., Aware Woman Center For Choice, Inc., or Manhattan Magnolia Corp.

TABLE OF CONTENTS

Question Presented ..... *i*

Parties To The Proceeding ..... *ii*

Corporate Disclosure Statement ..... *ii*

Table of Contents ..... *iii*

Appendix Table ..... *iv*

Table of Citations ..... *v*

Opinions Below 1

Statement of Jurisdiction 1

Constitutional and Statutory Provisions 2

Statement of the Case 3

Reason for Granting the Writ 4

Because the potential for historic embarrassment to the United States Court of Appeals for its unwitting role in the September 11 attacks precludes even the appearance of impartiality by that Court in the present appeal, the United States Supreme Court should review this case .

Conclusion 7

Appendix Table

Appendix A 1a

Order of the United States District Court , Middle District of Florida, Ocala Division, dismissing the RICO complaint with prejudice, filed November 21, 2003

Appendix B 4a

Order of United States Circuit Judge Stanley Marcus denying Appellant's motion for his disqualification, filed March 3, 2004

Appendix C 5a

Order of United States Circuit Judge Rosemary Barkett denying Appellant's motion for her disqualification, filed March 3, 2004

Appendix D 6a

Order of United States Circuit Judge Frank M. Hull denying Appellant's motion for her disqualification, filed February 27, 2004

Appendix E 7a

Order of United States Circuit Judge Charles Wilson denying Appellant's motion for his disqualification, recusing himself *sua sponte*, filed March 1, 2004.

TABLE OF CITATIONS

Cases: **Page**

Liteky v. United States, ... 6
510 U.S. 540 (1994)

Raney v. Aware Woman Center For Choice, Inc . 5
224 F.3d 1266, rehearing and suggestion for rehearing en banc denied 239 F.3d 371, certiorari denied 121 S.Ct. 1602, 532 U.S. 971, 149 L.Ed. 2d 468

Scheidler v. National Organization for Women ... 6
154 L.Ed. 2d 991 (2003)

United States v. Nixon 6
418 U.S. 683, 41 L.Ed. 2d 1039, 94 S.Ct. 3090 (1974)

United States v. Pendergraft 6
297 F.3d 1198 (11th Cir. 2002)

United States Constitution

Article III, Section 1 6

Statutes:

28 U.S.C. § 455 ..... 2, 5

28 U.S.C. §1254(1) 1

28 U.S.C. §1291 3

28 U.S.C. §2101 1

United States Supreme Court Rules

Rule 11 ..... 1, 6

Petitioner, Meredith T. Raney, Jr., respectfully requests that a writ of certiorari be issued to review this case which is pending in the United States Court of Appeals for the Eleventh Circuit.

OPINIONS BELOW

The order of the United States District Judge in *Meredith T. Raney, Jr. v. Allstate Insurance Company et al.*, Case Number: 5:02-cv-372-Oc-10GRJ is shown at Appendix A. The United States Court of Appeals for the Eleventh Circuit has not issued an opinion in this case. Orders filed by Judges Hull, Barkett, and Marcus, respectively, whereby each of these judges refused to disqualify themselves are shown as Appendices B, C, and D. Judge Wilson denied Petitioner's motion and recused himself *sua sponte*. Appendix E.

STATEMENT OF JURISDICTION

The decision of the United States District Court for the Middle District of Florida was entered on November 21, 2003 and appealed to the United States Circuit Court of Appeals, Eleventh Circuit, on December 9, 2003. There has been no decision in the United States Circuit Court

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and under 28 U.S.C. §2101 (e), as review is requested under United States Supreme Court Rule 11.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Article III of the United States Constitution, which states in pertinent part:

Section 1. . The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour .

There is also reference to the federal statute providing for the disqualification of justices, judges, or magistrates under 28 U.S.C. §455, which states, in pertinent part :

> (a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
>
> (b) He shall also disqualify himself in the following circumstances:
>
> 1. Where he has a personal bias or prejudice concerning a party . . .
>
> 4. He knows that he . . .has . . .any other interest that could be substantially affected by the outcome of the proceeding;

STATEMENT OF THE CASE

Meredith T. Raney, Jr. filed a civil RICO complaint with supplemental actions for malicious prosecution against all of the respondents in the United States District Court for the Middle District of Florida on December 12, 2002. The respondents filed various motions to dismiss which were granted on November 21, 2003: The RICO claim was dismissed with prejudice; the remaining malicious prosecution counts
were dismissed without prejudice subject to the right to pursue those claims in state court.

A timely notice of appeal was taken on December 9, 2003 pursuant to 28 U.S.C. §1291 which vested jurisdiction in the United States Court of Appeals, Eleventh Circuit. The four Raney motions for disqualification of the Clinton judicial appointees were denied; however, Judge Wilson recused himself *sua sponte*.

There has been no decision from the United States Court of Appeals on the central issues of the appeal.

REASON FOR GRANTING THE WRIT

Because the potential for historic embarrassment to the United States Court of Appeals for its unwitting role in the September 11 attacks precludes even the appearance of impartiality by that Court in the present appeal, the United States Supreme Court should review this case.

September 11 attacks

The attacks of September 11 will become the subject of an honest, thorough, competent investigation.

Such an inquiry will uncover the assistance received by the terrorists from persons already living in this country who helped with essential details, such as obtaining liability insurance, credit cards, and bank accounts.

It will be revealed that these attacks were such low budget affairs that even one resident with modest means could underwrite the entire operation.

Such a person may very well have lived in Port Charlotte, Florida where many of Mohamad Atta's activities were centered. Reportedly, he lived, trained, transferred money there and likely attended the secluded little mosque on the edge of town.

Another Muslim, an Iranian who reportedly trained at Teheran University as a physician, before moving to the New York area, then the Washington, D.C. area and then, to Port Charlotte, Florida may also have attended that same secluded little mosque with Mohamed Atta.

That doctor has an abortion clinic in Port Charlotte, Florida. He has reportedly said that Allah is pleased for

him to kill as many Christian babies as possible.

That doctor was grievously humiliated a few years ago when a local sheriff publicly called him a "baby killer". The notoriety resulted in personal interviews by the major media and personal appearance on network television from New York, resulting in international notoriety.

That same doctor was later the first abortionist to have his practice enhanced under the Wilson plan - named for a judge placed on the United States Court of Appeals by former President Clinton. (The appointment has been labeled both a reward for devising a successful pro-abortion plan and a brilliant strategy to insure that the United States Court of Appeals protected Mr. Clinton and Ms. Reno from any liability a rising from by the Wilson plan)

It has been claimed that the Eleventh Circuit did in fact provide such protection using the case of *Raney v. Aware Woman Center For Choice, Inc.*,224 F.3d 1266, rehearing and suggestion for rehearing en banc denied 239 F.3d 371, certiorari denied 121 S.Ct. 1602, 532 U.S. 971, 149 L.Ed. 2d 468 to create a legal shield for Judge Wilson and his powerful benefactors.

Ironically, the Port Charlotte abortionist was also a financial and legal beneficiary of *Raney v. Aware Woman Center For Choice, Inc.* (*supra*). That he may have used this increased income to sponsor the September 11 attacks - perhaps as the main domestic sponsor - creates too much potential embarrassment for the Eleventh Circuit.

Three of the Clinton appointees to that Court have refused to disqualify themselves as requested to do so by the Petitioner under 28 U.S.C. § 455. The Clerk's office has been less than helpful - - possibly obstructive. Meredith

Raney cannot reasonably expect that he will be treated fairly in the Eleventh Circuit, where the decision under appeal is in obvious conflict with *Scheidler v. National Organization for Women*, 154 L.Ed. 2d 991 (2003), and is a misapplication of *United States v. Pendergraft*, 297 F.3d 1198 (11th Cir. 2002).

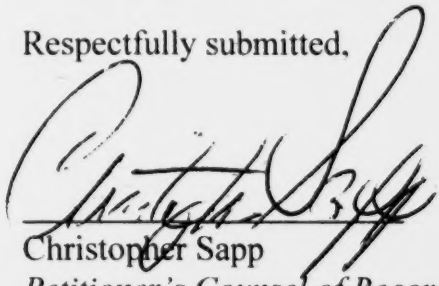
The decision in *Liteky v. United States*, 510 U.S. 540 (1994), requires the appearance of impartiality for all federal judges. Article III, Section I of the United States Constitution has mandated proper judicial conduct since the founding of our Nation. And, since the possible embarrassment of an enduring legal stain is too much for the Eleventh Circuit, the United States Supreme Court should act as it did during those days of national agony resulting from Watergate.

In accord with *United States v. Nixon*, 418 U.S. 683, 41 L.Ed. 2d 1039, 94 S.Ct. 3090 (1974), the United States Supreme Court should bypass the Court of Appeals and review this case under United States Supreme Court Rule 11.

CONCLUSION

Meredith T. Raney, Jr. respectfully requests that this Court grant a writ of certiorari and any other appropriate relief

Respectfully submitted,



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APPENDIX A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

Case 5:02-CV-372-Oc-10GRJ
(Filed November 21, 2003)

Meredith T. Raney, Jr

Plaintiff,

vs.

Allstate Insurance Company, et al.,

Defendants.

ORDER

On December 12, 2002, the Plaintiff, Meredith Raney, Jr., brought this action for violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §1961 *et seq.*, and for malicious prosecution under Florida law. The Magistrate Judge has issued a report (Doc. 60) recommending that the Defendants' individual motions to dismiss (Docs. 9, 20 and 52) be granted, the Plaintiff's RICO Act claim (Count I) be dismissed with prejudice and the Plaintiff's state law claims (Counts II through V) be dismissed without prejudice pursuant to 28 U.S.C. §1367 (c). The Defendant has filed objections to the Magistrate Judge's report (Doc. 61).

The Plaintiff states, without elaboration, that the

Magistrate Judge misapplied and misinterpreted Scheidler v. National Organization for Women[1] and United States v. Pendergraft[2]. However, this Court finds no basis for the Plaintiff's contention. The Magistrate Judge has properly applied the holdings in Scheidler and Pendergraft to the allegations in the Plaintiff's Complaint.

Accordingly, upon due consideration of the Plaintiff's objection, and upon an independent examination of the file, it is ordered that:

(1) the Plaintiff's objection (Doc. 61) to the Magistrate Judge's Report and Recommendation (Doc. 60) is OVERRULED;

(2) the Magistrate Judge's Report and Recommendation (Doc. 60) is adopted, confirmed, and made a part hereof;

(3) The Defendants' Motion to Dismiss (Docs. 9, 20 and 52) are GRANTED;

(4) the Plaintiff's RICO Act claim (Count I) is DISMISSED with prejudice;

(5) the Plaintiff's remaining state law claims (Counts II, III, IV and V) are dismissed without prejudice subject to the right pursue these claims in an appropriate state court; and

(6) the Clerk is directed to terminate all pending

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[1] 537 U.S. 393 (2003)

[2] 297 F.3d 1198 (11th Cir. 2002)

motions and close the file.

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida this 20th day of November, 2003.

/s/_____
UNITED STATES DISTRICT JUDGE

Copies to: The Honorable Gary R. Jones,
United States Magistrate Judge
Counsel of Record

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

03-16383-DD

MEREDITH T. RANEY, JR.,

Plaintiff-Appellant,

versus

ALLSTATE INSURANCE COMPANY,
ALLSTATE FLORIDIAN INSURANCE COMPANY,
OCALA WOMEN'S CENTER, INC.,
AWARE WOMAN CENTER FOR CHOICE, INC.,
EDWARD W. WINDLE, JR., et al.

Defendants-Appellees

On Appeal from the United States District Court for the Middle District of Florida

---

ORDER:

Appellant's "Motion That Circuit Judge Stanley Marcus Disqualify Himself" is DENIED.

/s/_____
Stanley Marcus

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

03-16383-DD

MEREDITH T. RANEY, JR.,

Plaintiff-Appellant,

versus

ALLSTATE INSURANCE COMPANY,
ALLSTATE FLORIDIAN INSURANCE COMPANY,
OCALA WOMEN'S CENTER, INC.,
AWARE WOMAN CENTER FOR CHOICE, INC
EDWARD W.. WINDLE, JR., et al.

Defendants-Appellees

On Appeal from the United States District Court for the Middle District of Florida

---

ORDER:

Appellant's "Motion That Circuit Judge Rosemary Barkett Disqualify Herself" is DENIED.

/s/_____
Rosemary Barkett

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

03-16383-DD

MEREDITH T. RANEY, JR.,

Plaintiff-Appellant,

versus

ALLSTATE INSURANCE COMPANY,
ALLSTATE FLORIDIAN INSURANCE COMPANY,
OCALA WOMEN'S CENTER, INC.,
AWARE WOMAN CENTER FOR CHOICE, INC.,
EDWARD W. WINDLE, JR., et al.

Defendants-Appellees

On Appeal from the United States District Court for the Middle District of Florida

---

ORDER:

Appellant's "Motion That Circuit Judge Frank M. Hull Disqualify Herself" is DENIED.

/s/ _____
Frank M. Hull

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

03-16383-DD

MEREDITH T. RANEY, JR.,

Plaintiff-Appellant,

versus

ALLSTATE INSURANCE COMPANY,
ALLSTATE FLORIDIAN INSURANCE COMPANY,
OCALA WOMEN'S CENTER, INC.,
AWARE WOMAN CENTER FOR CHOICE, INC.,
EDWARD W. WINDLE, JR., et al.

Defendants-Appellees

On Appeal from the United States District Court for the Middle District of Florida

---

ORDER:

Appellant's "Motion That Circuit Judge Charles Wilson Disqualify Himself" is DENIED, as the undersigned's recusal is not warranted on the grounds alleged in the motion. However, the undersigned sua sponte recuses himself from this appeal.

/s/_____
UNITED STATES CIRCUIT JUDGE

(2)

No. 031496 APR 19 2004

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Meredith T. Raney, Jr.,

Petitioner,

v.

Allstate Insurance Company, Allstate Floridian Insurance Company, Ocala Women's Center, Inc., Aware Woman Center For Choice, Inc., Edward W. Windle, Jr., Patricia Baird Windle, James S. Pendergraft,M.D., and Manhattan Magnolia, Corp.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

SUPPLEMENTAL APPENDIX

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Supplemental Appendix Table

Appendix F . . . . . **1a(s)**
Report and Recommendation of U.S. Magistrate Judge in the Middle District of Florida, Ocala Division, filed September 12, 2003.

1a(s)
FILED
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OCALA FLORIDA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

MEREDITH T. RANEY, JR.,

Plaintiff,

v. **Case No. 5:02-cv-372-Oc-10GRJ**

ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INSURANCE COMPANY, OCALA WOMEN'S CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EDWARD W. WINDLE, JR., PATRICIA BAIRD WINDLE, JAMES S. PENDERGRAFT, M.D., and MANHATTAN MAGNOLIA CORP.,

Defendants.

REPORT AND RECOMMENDATION[1]

Pending before the Court are: (1) Defendants Allstate Insurance Company and Allstate Floridian Insurance Company's (collectively referred to as "Allstate") Motion to Dismiss Plaintiff's Complaint (Docs. 9&10) (2) Defendants

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[1]Specific written objections may be filed in accordance with 28 U.S.C. (636, and Rule 6.02, Local Rules, M.D.Fla., within ten (10) days after service of this report and recommendation. Failure to file timely objections shall bar the party from a *de novo* determination by a district judge and from attacking factual findings on appeal.

Manhattan Magnolia Corp. ("Manhattan"), Aware Woman Center For Choice, Inc. ("Aware"), Edward W. Windle, Jr. ("E. Windle"), and Patricia Baird Windle's ("P. Windle") Motion to Dismiss (Doc. 20 & 21), and (3) Defendants Ocala Women's Center, Inc. ("OWC)" and James S. Pendergraft, M.D.'s ("Dr. Pendergraft") Motion to Dismiss and Memorandum of Law. (Doc. 52.) Plaintiff Meredith T. Raney ("Raney") has filed responses to the Motion to Dismiss (Docs. 32, 33 & 57) and, accordingly, the motions to dismiss are ripe for decision. For the reasons discussed below, each of the Defendants' motions to dismiss is due to be **GRANTED**.

1. INTRODUCTION

This case involves claims by Plaintiff against the eight named Defendants for violation of the Racketeer Influenced and Corrupt Organizations Act. ("RICO") and for malicious prosecution. The relvant facts, as alleged in the Complaint, reveal the following details.

During the time relevant to the claims in the Complaint, Plaintiff was engaged in various anti-abortion activities in the Central Florida area. As a result of these activities, certain abortion clinics filed federal lawsuits against Plaintiff under *inter alia* the federal law known as FACE[2], alleging that Plaintiff had committed intentional or criminal acts at the abortion clinics including threatening and stalking the owners of the clinics, trespassing in the property of the abortion clinics and violating "buffer zones." Plaintiff alleges that three such lawsuits were filed against him. The first lawsuit was filed against Plaintiff by Dr. Pendergraft and OWC on December 10, 1998 in the Ocala Division of this Court and styled *Ocala Women's Center, Inc. and James S. Pendergraft,*

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[2]18 U.S.C. §248.

M.D. v. Meredith Trotter Raney, et al., case no. 5:98-cv-371-Oc-10 (the "Ocala Case"). The second lawsuit was filed by P. Windle, E. Windle and Aware on January 4, 1999 in the Orlando Division of the Middle District and is styled *Aware Woman Center For Choice, Inc., Patricia Windle and Edward Windle, et al. v. Meredith Trotter Raney, Jr., et al.*, case no. 6:99-cv-5-Orl (the "Orlando Case"). The thirds case was filed by Manhattan, Aware and E. Windle on March 2, 1999 in the West Palm Division of the Southern District of Florida and is styled *Manhattan Magnolia Corporation, Aware Woman Center For Choice, Inc., Edward Windle, et al. v. Meredith trotter Raney, Jr., et al.*, case no. 99-8164 (the "West Palm Case").

As a result of Ocala, Orlando and West Palm Cases (collectively the "Federal Clinic Lawsuits"), Allstate - who insured Plaintiff under a homeowner's policy - was called upon to determine whether the claims in the Federal Clinic Lawsuits were covered under the policy. As is typical when claims are filed against an insured, Allstate issued a reservation of rights letter detailing Allstate's position with regard to coverage of the claims. In addition to issuing a reservation of rights letter, Allstate initiated a declaratory judgment action in state court requesting a judicial declaration that it did not owe Plaintiff a duty to defend or indemnify him with regard to the Federal Clinic Lawsuits.

Subsequently, each of the Federal Clinic Lawsuits was dismissed.[3] In view of the fact that the Federal Clinic Lawsuits had been dismissed against Plaintiff, the necessity for a declaration from the Court as to whether Allstate had a duty to defend or a duty to indemnify the Plaintiff was no longer

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[3] The Ocala Case was dismissed on December 17, 1999 and the Orlando Case and the West Palm Case were dismissed on September 1, 1999 and July 14, 2000, respectively.

required and, accordingly, Allstate voluntarily dismissed the state court declaratory judgment action.

Plaintiff alleges that each of the four specified suits were filed maliciously and without any reasonable probability of success and, therefore, asserts that each party listed in Plaintiff's business, which allegedly provided assistance to pregnant women and counseling to people concerned with the practice of abortion. Plaintiff alleges that by writing to Allstate inquiring about possible settlement, Roy Lucas ("Lucas") the attorney representing the plaintiffs in the Federal Clinic Lawsuits, guilefully informed Allstate that his clients would sue Plaintiff if Allstate would support such suits. According to Plaintiff, Allstate's decision to reply with a reservation of rights letter, rather than an immediate denial of coverage, signaled to Lucas that Allstate would compensate the other members of the purported conspiracy for filing the suits. Plaintiff contends that Allstate's actions were motivated by a desire to impede Plaintiff's anti-abortion activities.

Under Plaintiff's theory of the case, insurance companies - such as Allstate - are the primary beneficiaries of the abortion industry, as each fetus aborted prevents insurers from having to pay healthcare expenses that would otherwise accrue during childhood of the non-aborted individual. Plaintiff concludes that the filing of the Federal Clinic Lawsuits, in conjunction with Allstate's state court declaratory judgment action, evidence acts of a financially-motivated enterprise created to destroy Plaintiff's anti-abortion counseling business.

With respect to the federal cause of action under RICO each of the Defendants argue in their respective motions, that the RICO claims are defective and should be dismissed because Plaintiff has failed to allege: (1) facts demonstrating cognizable predicate acts, and (2) facts capable of

demonstrating the existence of either a pattern of racketeering activity or an enterprise, both of which must be established to maintain a RICO cause of action.

In addition, Allstate contends that Plaintiff's RICO claim is barred by the McCarran-Ferguson Act, which provides that federal law should not "be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance."[4]

With regard to the malicious prosecution claims the Defendants attack the sufficiency of these claims, and two of the Defendants, alternatively request that the Court decline supplemental jurisdiction over the state law malicious prosecution claims, should the Court decide to dismiss the federal RICO claims.

II. MOTION TO DISMISS STANDARD

In passing on a motion to dismiss under Rule 12(b)(6), the Court is mindful that "[d]ismissal of a claim on the basis of barebones pleadings is a precarious disposition with a high mortality rate."[5] A complaint should not be dismissed for failure to state a claim unless it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.[6] The threshold of sufficiency that

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4 15 U.S.C. §1012(b)

5 International Erecters, Inc. v. Wilhoit Steel Erectors & Rental Servs., 400 F.2d 465, 471 (5th Cir. 1968)

6 Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 101-02 (1957). See also, Cook & Nichol, Inc. v. The Plimsoll Club, 451 F.2d 505, 506 (5th Cir. 1971 ("a motion to dismiss for failure to state a claim should not be granted unless it appears to a certainty that the plaintiff would not be entitled to recover under any state of acts which could be proved in support of his claim").

a complaint must meet to survive a motion to dismiss is exceedingly low.[7] A complaint is sufficiently pled "if it shows that the plaintiff is entitled to any relief which the Court can grant, regardless of whether it asks for the proper relief."[8] Also, a court must accept a plaintiff's well-pled facts as true and construe the complaint in the light most favorable to the plaintiff.[9]

III. DISCUSSION

Because the motions filed by Allstate, Manhattan, Aware, E. Windle, P. Windle, OWC and Dr. Pendergraft all generally assert the same grounds regarding dismissal of the RICO claims, the Court will address the sufficiency of the RICO claims as it applies to all of the Defendants.

The RICO Act, 18 U.S.C. §1961 *et seq.*, provides a civil casue of action where the following four elements are apparent: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering behavior."[10]

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[7] See Ancata v. Prison Health Servs., 769 F.2d 700, 703 (11th Cir 1985) (citation omitted).

[8] Dortschav v. National Mut. Ins. Co., 246 F.2d 221 (5th Cir. 1957) (emphasis added).

[9] See Scheuer v. Rhodes 416 U.S. 232, 94 S.Ct. 1683, 40 L.Ed. 2d 90 (1974); Howry v. Nisus, Inc., 910 F. Supp. 576 (M.D. Fla. 1995)

[10] Durham v. Business Management Associates, 847 F.2d 1505, 1511 (11th Cir. 1988) (citing Sedima S.P.R.L. v. Imrex Co., 473 U.S. 479 (1985)).. See 19 U.S.C. 1964 (c) which reads as follows: "Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States District Court and shall recover threefold the damages he sustains and the cost of the suit, including reasonable attorney's fee."

A pattern of racketeering activity, as defined in 18 U.S.C. §1961(5), requires at least two distinct but related predicate acts of "racketeering activity" within a 10 year period. [11] "Racketeering activity" is defined under RICO as an act violating any of the criminal statutes listed in 18 U.S.C. §1961(1). RICO's list of racketeering activities includes "any act or threat involving . . . .extortion . . . . which is chargeable under State law and punishable by imprisonment for more than one year" and " any act which is indictable under any of the following provisions of title 18 United States Code . . . section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering) . . ."

When addressing the sufficiency of a RICO claim on a motion to dismiss, as here, the Court must determine whether or not the plaintiff has "allege[d] facts sufficient to support each of the statutory elements for at least two of the predicate acts." [12] Thus, as a first step the Plaintiff must allege at least two predicate acts. A failure to do so would render the RICO claim subject to dismissal.

In the Complaint, Plaintiff alleges that the predicate acts include: (1) "acts and/or threats of extortion against the Plaintiff , utilizing acts and/or threats of malicious prosecution [which is] chargeable under state law and punishable by imprisonment for more than one year."; (2) "the obstruction of interstate commerce by extortion and/or attempts and/or conspiracy to commt extortion . . . in violation of 18 U.S.C. §1951." and (3) "travel in interstate commerce and the use of the United States Mail with the intent to commit crimes to further acts of extortion and/or to promote, manage, establish, carry on or facilitate the promotion, management,

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[11] See 18 U.S.C. §1961(5)

[12] Republic of Panama v. BCCI Holdings, 119 F.3d 935, 949 (11th Cir. 1997)

establishment, or carrying on of extortion, . . . in violation of 18 U.S.C. §1952." [13] Thus, as framed by Plaintiff in his Complaint, the predicate acts are premised on: (1) extortion under state law, (2) extortion under the Hobbs Act, 18 U.S.C. §1951, and (3) use of the mails and travel in interstate commerce in aid of the alleged extortion. It is evident, however, from a complete review of the Complaint, that the sole factual foundation for the predicate acts under RICO, is the allegedly malicious prosecution of the three federal lawsuits by the Defendants. There is no allegation by Plaintiff that the Defendants committed any other predicate acts, which are unrelated to the filing and prosecution of the three federal lawsuits. Therefore, the determination of whether the malicious prosecution of the Federal Clinic Lawsuits, can serve as the basis for a civil RICO claim is pivotal to resolution of the pending motion. As explained below, for at least two reasons, the malicious prosecution of the three federal lawsuits - even if deemed to be true - is insufficient as a matter of law, to establish the necessary predicate acts to support a RICO claim.

Turning first to Plaintiff's claim that the malicious filing of the three federal lawsuits violates the Hobbs Act - and thus constitutes a predicate act under RICO - this issue has been squarely addressed by the Eleventh Circuit in United States v. Pendergraft. [14] In Pendergraft the Eleventh Circuit observed that a number of courts have held that " a threat to file a civil lawsuit, even if made in bad faith, is not "wrongful" within the meaning of the Hobbs Act." [15] The Court went on to reason that where a lawsuit is filed for extortionate reasons, the claim is essentially one for malicious prosecution.

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13 Doc. 1, ¶2.

14 297 F.3d 1198, 1205 (11th Cir. 2002).

15 *Id.* (Citations omitted).

According to Pendergraft, the courts that have found it is not a violation of the Hobbs Act to file a lawsuit in bad faith, "have recharacterized the extortion charges as actions for malicious prosecution and have held that malicious prosecution is not a RICO predicate act." [16] For this reason, the court in Pendergraft held that, as a matter of law, the filing of civil litigation in bad faith and even with the intent to commit or to attempt to commit extortion, cannot serve as the basis for a criminal prosecution based on the Hobbs Act. [17]

Accordingly, under Pendergraft, even accepting as true Plaintiff's allegations that Defendants maliciously prosecuted the Federal Clinic Lawsuits in bad faith and to extort Plaintiff, these allegations are legally insufficient to establish a violation of the Hobbs Act and, therefore, Plaintiff has failed to establish a predicate act under RICO. [18]

Secondly, as the Supreme Court recently held in Scheidler v. National Organization for Women, [19] in order to properly establish a RICO claim based on the predicate act of extortion - either under the Hobbs Act or under state law

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16 *Id.*

17 One of the reasons the Pendergraft panel was convinced that malicious prosecution of civil cases should not be used to trigger criminal charges under the Hobbs Act was because "allowing litigants to be charged with extortion would open yet another collateral way for litigants to attack one another." 297 F.3d at 1207.

18 Consistent with the Eleventh Circuit's holding in Pendergraft, a number of other courts similarly have found that the initiation of a law suit cannot constitute a predicate act under RICO, even if the law suit is malicious. *See, e.g.* Ippolito v. State of Florida, 824 F.Supp. 1562, 1575 (M.D.Fla. 1993) ("the initiation of a law suit cannot constitute a predicate act, even if that law suit is malicious"); Vemco, Inc. v. Camardella, 23 F.3d 129, 134 (6th Cir. 1994) ("A threat of litigation . . . does not constitute extortion.").

19 537 U.S. 393, 123 S.Ct. 1057, 154 L.Ed. 2d 991 (2003)

extortion statutes [20] - it must be established that the RICO defendant *obtained* or *attempted to obtain property from the plaintiff.* The Scheidler court found that to "obtain or attempt to obtain" means to acquire the property from the plaintiff so that the defendant has acquired "something of value" over which they "could exercise, transfer, or sell." [21] Conversely, "obtain or attempt to obtain" does not mean simply interfere with, disrupt or even deprive someone of their property rights.

Here, Plaintiff's Complaint is fatally flawed because Plaintiff does not allege that the Defendant obtained or attempted to obtain any property from him. Instead, Plaintiff merely alleges that as a result of the filing and malicious prosecution of the Federal Clinic Lawsuits, "Defendants' racketeering activities have decreased the business of and/or increased the expense and difficulty of doing business by the Plaintiff. [22] Like the unsuccessful plaintiff abortion clinics in Scheidler, Plaintiff, here, has at best alleged that the actions of the Defendants interfered with the rights and business interest of Plaintiff. This shortcoming is fatal to the pursuit of a claim against the Defendants under RICO because, in the absence of an allegation that property was obtained by the Defendants,

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[20] Because the Supreme Court recognized in Scheidler "that for a state offense to be an 'act or threat involving . . .extortion . . . which is chargeable under State law,' as RICO requires [see 18 U.S.C. §1961(1)), the conduct must be capable of being generically classified as extortionate." Further, "generic extortion is defined as 'obtaining something of value from another with his consent induced by the wrongful use of force, fear, or threats . . ." 123 S.Ct. at 1068. Thus, the failure to allege that Defendants obtained or attempted to obtain Plaintiff's property, is equally applicable to Plaintiff's reliance upon state law extortion claims as the basis for the predicate acts.

[21] *Id.* 123 S.Ct. At 1066

[22] Doc. 1 ¶47.

Plaintiff cannot establish that Defendants committed any predicate acts. Plaintiff cannot establish that there was a pattern of racketeering behavior, and, accordingly, Plaintiff's RICO claim is due to be dismissed with prejudice. [23]

Lastly, with regard to Plaintiff's state law claims for malicious prosecution, [24] because there are no federal claims remaining, pursuant to 28 U.S.C. § 1367(c)(3), the Court may decline to exercise supplemental jurisdiction. In view of the fact that all of the remaining claims involve issues that will be solely resolved in accordance with state law, the Court should exercise its discretion and decline to exercise supplemental jurisdiction over the malicious prosecution claims in counts II, III, IV and V of the Complaint. Plaintiff, may of course, pursue the claims in an appropriate state court subject to the tolling provisions in 28 U.S.C. §1367(d).

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[23] Because the defect in Plaintiff's RICO claim with regard to his failure to establish the necessary predicate acts is not a curable defect - but rather is fatal to the RICO claim - it is unecessary for the Court to address Allstate's argument that the RICO claim is bared by the McCarran-Ferguson Act or to address the other arguments by Defendants that the RICO claim is deficient because of lack of participation by some defendants and because of deficiencies with regard to alleging an "enterprise" under RICO.

[24] The Court's decision to decline supplemental jurisdiction to permit pursuit of the malicious prosecution claims in state court is not an implied or tacit acknowledgment that the Court has found that the claims state a cause of action against any of the Defendants.

IV. RECOMMENDATION

For the foregoing reasons, it is respectfully **RECOMMENDED** that: (1) Defendant Allstate's Motion to Dismiss be **GRANTED** (Doc. 9), (2) Defendants Manhattan, Aware, E. Windle, and P. Windle's Motion to Dismiss (Doc.20) be **GRANTED**, (3) Defendants OWC and Dr. Pendergraft's Motion to Dismiss (Doc. 52) be **GRANTED**, (4) Count I of the Complaint, alleging a violation of RICO, be **DISMISSED with prejudice**, and (5) Counts II, III, IV, and V, of the Complaint, which purport to allege claims for violation of state law only, be **DISMISSED without prejudice** pursuant to 28 U.S.C. §1367(c) subject to the right to pursue Counts II, III, IV and V, of the Complaint in the appropriate state forum and subject to the tolling provisions provided in 28 U.S.C. §1367(d).

IN CHAMBERS in Ocala, Florida on this 12th day of September, 2003.

/s/_____
GARY R. JONES
United States Magistrate Judge

Copies to:

The Honorable Wm. Terrell Hodges
Senior United States District Judge

Counsel of Record

(3)

Supreme Court, U.S.
FILED
AUG 23 2004
OFFICE OF THE CLERK

No. 03-1496

IN THE

SUPREME COURT OF THE UNITED STATES

Meredith T. Raney, Jr.,

Petitioner,

v.

Allstate Insurance Company, Allstate Floridian Insurance Company, Ocala Women's Center, Inc., Aware Woman Center For Choice, Inc., Edward W. Windle, Jr., Patricia Baird Windle, James S. Pendergraft, M.D., and Manhattan Magnolia, Corp.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITIONER'S SUPPLEMENTAL BRIEF

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Intervening matters not available at the time Meredith T. Raney, Jr. filed his petition for writ of certiorari are now presented to the Supreme Court in accord with Rule 15 of the United States Supreme Court Rules.

These matters include excerpts from the 9/11 Commission Report, a Time magazine article, and correspondence concerning an Eleventh Circuit order. There are also excerpts from a series of lawsuits against Mr. Raney wherein the Respondents sought to extort from him vast amounts of money and property.

The Eleventh Circuit has entered a decision in the *Raney v. Allstate* appeal which now necessitates a restatement of the question before the Supreme Court in accord with Rule 12 of the United States Supreme Court Rules. Thus the issue is amended accordingly.

AMENDED QUESTION PRESENTED

Since the potential for historic embarrassment to a United States Court of Appeals for its unwitting role in the September 11 attacks precludes even the appearance of impartiality by that Court in the present appeal, should the United States Supreme Court review this case and the appellate decision therein ?

TABLE OF CONTENTS

Amended Question Presented ..... *i*

Table of Contents ..... *ii*

New Matters Concerning Granting the Writ . 1

Because the potential for historic embarrassment to the United States Court of Appeals for its unwitting role in the September 11 attacks precludes even the appearance of impartiality by that Court in the present appeal, the United States Supreme Court should review this case and the appellate decision therein.

Conclusion 3

Appendix A 1a

Decision of the United States Court of Appeals for the Eleventh Circuit, affirming the United States District Court for the Middle District of Florida, filed May 24, 2004.

Petitioner, Meredith T. Raney, Jr., respectfully requests that a writ of certiorari be issued to review this case and the appellate decision in the United States Court of Appeals for the Eleventh Circuit.

NEW MATTERS

Because the potential for historic embarrassment to the United States Court of Appeals for its unwitting role in the September 11 attacks precludes even the appearance of impartiality by that Court in the present appeal, the United States Supreme Court should review this case and the appellate decision therein.

The new matters shown in Subject [A] of the Selected Exhibits to this Supplemental Brief enhance the concern stated in Mr. Raney's original petition for writ of certiorari about the inadvertent help possibly supplied to the 9/11 terrorists by the Eleventh Circuit.

In Subject [B] of the Selected Exhibits to the Supplemental Brief are found recent materials indicating an improper effort by Eleventh Circuit judges to obstruct this case by using The Florida Bar as a goon squad to intimidate Mr. Raney's attorney.

While the excerpts found in Subject [C] of the Selected Exhibits showing a series of extortionate lawsuits brought against Mr. Raney as part of the Allstate RICO conspiracy are not themselves of recent origin, they relate to the decision of the United States Court of Appeals which was entered on May 24, 2004, following the filing of the original petition for writ of certiorari in this case.

That decision at the Eleventh Circuit, coupled with the other recent revelations, have been the basis for filing this Supplemental Brief under Rule 15 of the United States

Supreme Court Rules and the broadened review sought in accord with Rule 12 of the United States Supreme Court Rules.

Mr. Raney has known that he would not receive justice in the Eleventh Circuit, even though he is able to plead and prove his RICO case against the Respondents. Predictably, the appellate court has misstated facts and, by judicial *fiat*, rewritten the laws of Florida in its decision affirming the lower court which had dismissed the Raney complaint with prejudice.

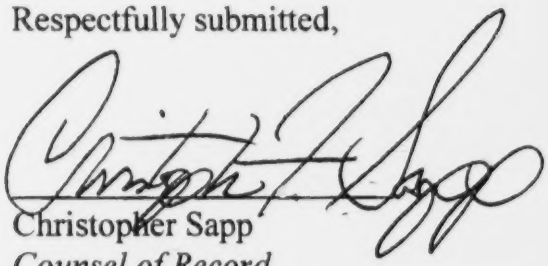
Because of the 9/11 pall which hangs over the Eleventh Circuit, Mr. Raney's prophecy of severe bias against him came to be. One way or another, there was no question about the outcome of the Raney appeal in the Eleventh Circuit: it was doomed from the start.

The bow at the end of a Broadway play belongs to the actors. Yet those that set the stage also receive credit for their part in the performance. While Atta and Al Shehhi and the others deliberately assaulted and killed thousands of innocent Americans, those who helped these terrorists will share in their awful stigma. This is true even where the help was inadvertent.

CONCLUSION

There can be no justice in this case without the issuance of a writ of certiorari.

Respectfully submitted,



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APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-16383
Non-Argument Calendar

D.C. Docket No. 02-00372- CV-OC-10-GRJ

Meredith T. Raney, Jr

Plaintiff-Appellant,

versus

Allstate Insurance Company,
Allstate Floridian Insurance Company,
Ocala Women's Center, Inc.,
Aware Woman Center For Choice, Inc.,
Edward W. Windle, Jr., et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(MAY 24, 2004)

Before CARNES, BARKETT, and HULL, Circuit Judges.

PER CURIAM:

Meredith Raney appeals the district court dismissal of his complaint for extortion under the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 et. seq. Raney charged several abortion providers and his own insurance company with a conspiracy to extort money from him through the filing of malicious lawsuits. Because the filing of a lawsuit may not state a claim for extortion under the federal RICO statutes, we affirm the district court dismissal of Raney's complaint under Federal Rule of Procedure 12 (b)(6).

For several years, Raney has actively opposed the provision of abortion in Florida by engaging in numerous activities near the entrances to abortion clinics. See, e.g., Raney v. Aware Woman Ctr. For Choice, Inc., 224 F.3d 1266 (11th Cir. 2000). In 1998 and 1999, three abortion clinics filed separate lawsuits against Raney, accusing him of violating the Freedom of Access to Clinic Entrances Act ("FACE"), 18 U.S.C. § 248, as well as various other statuary and common law injuries. In response to these lawsuits, Raney's homeowner's policy insurer, Allstate, issued a reservation of rights letter outlining its position on coverage. Allstate also filed a declaratory judgment action seeking to establish that it owed no duty to defend Raney .[1] Each of these lawsuits was subsequently dismissed without prejudice, and Allstate withdrew its declaratory judgment suit.

Raney filed suit in federal court charging each of the clinics and his insurance company with malicious prosecution, extortion and conspiracy to destroy him and his business. According to Raney, Allstate signaled its complicity in the

[1] This is common practice in Florida state courts. See, e.g.. State Farm Fire & Cas. Co. v. Cronk, 530 So. 2d 445 (Fla, Dist. Ct. App. 1988).

baseless suits by issuing a reservation a reservation of rights letter rather than denying coverage outright. Raney argued that Allstate benefits from abortion by avoiding healthcare claims it would otherwise pay over the course of a child's life. The defendants responded that Raney had failed to state a claim because, as a matter of law, the filing of a lawsuit cannot form a predicate act under RICO. The magistrate judge recommended granting the defendants' motion, and the district court adopted that recommendation.

We review de novo the decision to dismiss a complaint for failure to state a claim upon which relief may be granted. Lowell v. Am. Cyanamid Co., 177 F.3d 1228, 1229 (11th Cir. 1999). We accept the factual allegations in the complaint as true and construe them in the light most favorable to the plaintiff. Roberts v. Fla. Power & Light Co., 146 F.3d 1305, 1307 (11th Cir. 1998). In order to survive a motion to dismiss in a civil RICO case, a plaintiff must show a "pattern of racketeering activity" by alleging that the defendants committed two qualifying predicate acts. Republic of Panama v. BCCI Holdings, 119 F.3d 935, 948-49 (11th Cir. 1997). This requires that a plaintiff allege facts that support each statutory element of a violation of one of the state or federal laws described in 18 U.S.C. § 1961(1).

In this case, Raney's RICO claim depends upon his ability to show a violation of the Hobbs Act, which bars interference in interstate commerce by means of extortion. See 18 U.S.C. § 1951. Although Raney alleges various specific complaints including mail fraud, extortion, and malicious prosecution, all of these relate to the alleged conspiracy to extort money through the filing of malicious lawsuits. We agree with the district court that Raney's argument is foreclosed by our recent decision in United States v. Pendergraft, 297 F.3d 1198 (11th Cir. 2002). In Pendergraft, the defendants allegedly threatened to sue a county government by falsely claiming that the County

Chairman had threatened violence against their abortion clinic. We held that neither the threat to litigate nor the fabrication of evidence behind the lawsuit made the action "wrongful" within the meaning of 18 U.S.C. § 1951 and therefore barred by this decision.[2]

Raney argues that Pendergraft applies only threats of litigation, rather than actual litigation. We reject this argument. Although Pendergraft involved only threatened litigation, the reasoning in that opinion applies equally to litigation that has already commenced. We noted that courts possess adequate procedures to distinguish valid claims from invalid claims and held that Congress did not intend to punish citizens merely for accessing the legal system. Id. At 1206-07. We found ourselves "troubled by *any* use of this federal criminal statute to punish civil litigants." Id. At 1207 (emphasis in original). We noted that "allowing litigants to be charged with extortion would open yet another collateral way for litigants to attack one another." Id. We also expressed

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[2] We also reject any potential state-law extortion or mail fraud claims as predicate acts in this case. Neither Raney's complaint nor his appellate briefs identify any Florida statute that would give rise to a federal RICO violation. Moreover, in order for a state extortion offense to qualify as a predicate act under the federal RICO statute, the conduct must be capable of being generically classified as extortionate: that is, "obtaining something of value from another with his consent induced by the wrongful use of force, fear or threats." Scheidler v. Nat'l Org. For Women, Inc., 537 U.S. 393, 409-410 (2003) (quoting the Model Penal Code). In light of our decision in Pendergraft, we no doubt that the filinf of a lawsuit could ever be "wrongful" for the purposes of RICO. See also L.S. Joseph Co. v. J. Lauritzen A/S, 751 F.2d 265, 267-68 (8th Cir. 1984) (threats to sue, even if groundless or in bad faith, may be tortious under state law but do not come within the federal extortion statute).

Similarly, we held in Pendergraft that, absent an intent to deceive the victim, the " mailing of litigation documents, even perjurious ones, did not violate the mail-fraud statute." 297 F.3d at 1209. Raney does not allege any intent to deceive him, and he therefore cannot extablish mail fraud as a predicate act for his RICO claims

concern about transforming every state-law malicious prosecution action into a federal crime. Id. At 1207-08. All of these concerns apply to actual litigation with added force. Furthermore, other courts have explicitly applied this reasoning to litigation that has already been filed. See, e.g., Deck v. Engineered Laminates, 349 F.3d 1253, 1258 (10th Cir. 2003) (citing Pendergraft and rejecting "meritless litigation" as a predicate act under RICO when the suit had actually been filed). [3]

We also reject Raney's argument that the district court should have exercised supplemental jurisdiction over the remaining state-law claims. The decision to exercise supplemental jurisdiction over pendant state claims rests within the discretion of the district court. Mergens v. Dreyfoos, 166 F. 3d 1114, 1119 (11th Cir. 1999). We have encouraged district courts to dismiss any remaining claims when, as here, the federal claims have been dismissed prior to trial. L.A. Draper & Son v. Wheelabrator-Frye, Inc., 735 F.2d 414, 428 (11th Cir. 1984). Nothing in this record suggests the district court abused its discretion in declining to exercise jurisdiction over the remaining claims.

AFFIRMED.

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[3] The sole case cited by Raney, Florida Evergreen Foliage v. Dupont, 135 F. Supp. 2d 1271 (S.D. Fla.. 2001), involved a pattern of witness intimidation, fraudulent depositions, and concealment of data and documents, and, in any case, predated Pendergraft.

(4)

No. 03-1496

IN THE

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v.

Allstate Insurance Company, Allstate Floridian Insurance Company, Ocala Women`s Center, Inc., Aware Woman Center For Choice, Inc., Edward W. Windle, Jr., Patricia Baird Windle, James S. Pendergraft,M.D., and Manhattan Magnolia, Corp.,

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SELECTED EXHIBITS TO SUPPLEMENTAL BRIEF

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TABLE OF CONTENTS

[A] EXHIBITS TENDING TO CONFIRM THE GRAVE EXTERNAL INFLUENCE ON CERTAIN ELEVENTH CIRCUIT JUDGES:

Portion of the 9/11 Commission Report showing that Richard A. Clarke was the sole person responsible for removing Muslims from the United States shortly after the terrorist attacks.

Portion of the 9/11 Commission Report showing that there is an Iranian connection to the terrorist attacks which has not been completely investigated.

Portion of the 9/11 Commission Report concerning terrorists' funding.

Time magazine article about the papers concerning 9/11 removed from the National Archives by Sandy Berger, former National Security Advisor to President Clinton.

[B] EXHIBITS INDICATING EFFORTS OF SOME ELEVENTH CIRCUIT JUDGES TO DERAIL THIS CASE:

Order from the Eleventh Circuit and resulting correspondence.

[C] EXHIBITS CONCERNING PROGRAM OF EXTORTIONATE LITIGATION AS PREDICATE ACTS OF ALLSTATE RICO CONSPIRACY:

Excerpt from *Aware Woman v. Raney* complaint.

Excerpt from *Manhattan Magnolia* complaint.

Excerpt from *Ocala Women's Center* complaint.

SUBJECT [A]

THE 9/11 COMMISSION REPORT

FINAL REPORT OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

AUTHORIZED EDITION

manipulation of the stock market based on its advance knowledge of the 9/11 attacks. Exhaustive investigations by the Securities and Exchange Commission, FBI, and other agencies have uncovered no evidence that anyone with advance knowledge of the attacks profited through securities transactions.[130]

To date, the U.S. government has not been able to determine the origin of the money used for the 9/11 attacks. Ultimately the question is of little practical significance. Al Qaeda had many avenues of funding. If a particular funding source had dried up, al Qaeda could have easily tapped a different source or diverted funds from another project to fund an operation that cost $400,000–$500,000 over nearly two years.

The Funding of the 9/11 Plot

As noted above, the 9/11 plotters spent somewhere between $400,000 and $500,000 to plan and conduct their attack. The available evidence indicates that the 19 operatives were funded by al Qaeda, either through wire transfers or cash provided by KSM, which they carried into the United States or deposited in foreign accounts and accessed from this country. Our investigation has uncovered no credible evidence that any person in the United States gave the hijackers substantial financial assistance. Similarly, we have seen no evidence that any foreign government—or foreign government official—supplied any funding.[131]

We have found no evidence that the Hamburg cell members (Atta, Shehhi, Jarrah, and Binalshibh) received funds from al Qaeda before late 1999. It appears they supported themselves. KSM, Binalshibh, and another plot facilitator, Mustafa al Hawsawi, each received money, in some cases perhaps as much as $10,000, to perform their roles in the plot.[132]

After the Hamburg recruits joined the 9/11 conspiracy, al Qaeda began giving them money. Our knowledge of the funding during this period, before the operatives entered the United States, remains murky. According to KSM, the Hamburg cell members each received $5,000 to pay for their return to Germany from Afghanistan after they had been selected to join the plot, and they received additional funds for travel from Germany to the United States. Financial transactions of the plotters are discussed in more detail in chapter 7.

Requirements for a Successful Attack

As some of the core operatives prepared to leave for the United States, al Qaeda's leaders could have reflected on what they needed to be able to do in order to organize and conduct a complex international terrorist operation to inflict catastrophic harm. We believe such a list of requirements would have included

- leaders able to evaluate, approve, and supervise the planning and direction of the operation;
- communications sufficient to enable planning and direction of the operatives and those who would be helping them;

Moqed, flew into Iran from Bahrain. In February 2001, Khalid al Mihdhar may have taken a flight from Syria to Iran, and then traveled further within Iran to a point near the Afghan border.[125]

KSM and Binalshibh have confirmed that several of the 9/11 hijackers (at least eight, according to Binalshibh) transited Iran on their way to or from Afghanistan, taking advantage of the Iranian practice of not stamping Saudi passports. They deny any other reason for the hijackers' travel to Iran. They also deny any relationship between the hijackers and Hezbollah.[126]

In sum, there is strong evidence that Iran facilitated the transit of al Qaeda members into and out of Afghanistan before 9/11, and that some of these were future 9/11 hijackers. There also is circumstantial evidence that senior Hezbollah operatives were closely tracking the travel of some of these future muscle hijackers into Iran in November 2000. However, we cannot rule out the possibility of a remarkable coincidence—that is, that Hezbollah was actually focusing on some other group of individuals traveling from Saudi Arabia during this same time frame, rather than the future hijackers.[127]

We have found no evidence that Iran or Hezbollah was aware of the planning for what later became the 9/11 attack. At the time of their travel through Iran, the al Qaeda operatives themselves were probably not aware of the specific details of their future operation.

After 9/11, Iran and Hezbollah wished to conceal any past evidence of cooperation with Sunni terrorists associated with al Qaeda. A senior Hezbollah official disclaimed any Hezbollah involvement in 9/11.[128]

We believe this topic requires further investigation by the U.S. government.

7.4 FINAL STRATEGIES AND TACTICS

Final Preparations in the United States

During the early summer of 2001, Atta, assisted by Shehhi, was busy coordinating the arrival of most of the muscle hijackers in southern Florida—picking them up at the airport, finding them places to stay, and helping them settle in the United States.[129]

The majority settled in Florida. Some opened bank accounts, acquired mailboxes, and rented cars. Several also joined local gyms, presumably to stay fit for the operation. Upon first arriving, most stayed in hotels and motels; but by mid-June, they settled in shared apartments relatively close to one another and Atta.[130] Though these muscle hijackers did not travel much after arriving in the United States, two of them, Waleed al Shehri and Satam al Suqami, took unusual trips.

On May 19, Shehri and Suqami flew from Fort Lauderdale to Freeport, the Bahamas, where they had reservations at the Bahamas Princess Resort. The two were turned away by Bahamian officials on arrival, however, because they

Flights of Saudi Nationals Leaving the United States

Three questions have arisen with respect to the departure of Saudi nationals from the United States in the immediate aftermath of 9/11: (1) Did any flights of Saudi nationals take place before national airspace reopened on September 13, 2001? (2) Was there any political intervention to facilitate the departure of Saudi nationals? (3) Did the FBI screen Saudi nationals thoroughly before their departure?

First, we found no evidence that any flights of Saudi nationals, domestic or international, took place before the reopening of national airspace on the morning of September 13, 2001.[24] To the contrary, every flight we have identified occurred after national airspace reopened.[25]

Second, we found no evidence of political intervention. We found no evidence that anyone at the White House above the level of Richard Clarke participated in a decision on the departure of Saudi nationals. The issue came up in one of the many video teleconferences of the interagency group Clarke chaired, and Clarke said he approved of how the FBI was dealing with the matter when it came up for interagency discussion at his level. Clarke told us, "I asked the FBI, Dale Watson . . . to handle that, to check to see if that was all right with them, to see if they wanted access to any of these people, and to get back to me. And if they had no objections, it would be fine with me." Clarke added, "I have no recollection of clearing it with anybody at the White House."[26]

Although White House Chief of Staff Andrew Card remembered someone telling him about the Saudi request shortly after 9/11, he said he had not talked to the Saudis and did not ask anyone to do anything about it. The President and Vice President told us they were not aware of the issue at all until it surfaced much later in the media. None of the officials we interviewed recalled any intervention or direction on this matter from any political appointee.[27]

Third, we believe that the FBI conducted a satisfactory screening of Saudi nationals who left the United States on charter flights.[28] The Saudi government was advised of and agreed to the FBI's requirements that passengers be identified and checked against various databases before the flights departed.[29] The Federal Aviation Administration representative working in the FBI operations center made sure that the

FBI was aware of the flights of Saudi nationals and was able to screen the passengers before they were allowed to depart.[30]

The FBI interviewed all persons of interest on these flights prior to their departures. They concluded that none of the passengers was connected to the 9/11 attacks and have since found no evidence to change that conclusion. Our own independent review of the Saudi nationals involved confirms that no one with known links to terrorism departed on these flights.[31]

10.2 PLANNING FOR WAR

By late in the evening of September 11, the President had addressed the nation on the terrible events of the day. Vice President Cheney described the President's mood as somber.[32] The long day was not yet over. When the larger meeting that included his domestic department heads broke up, President Bush chaired a smaller meeting of top advisers, a group he would later call his "war council."[33] This group usually included Vice President Cheney, Secretary of State Powell, Secretary of Defense Donald Rumsfeld, General Hugh Shelton, Vice Chairman of the Joint Chiefs (later to become chairman) General Myers, DCI Tenet, Attorney General Ashcroft, and FBI Director Robert Mueller. From the White House staff, National Security Advisor Condoleezza Rice and Chief of Staff Card were part of the core group, often joined by their deputies, Stephen Hadley and Joshua Bolten.

In this restricted National Security Council meeting, the President said it was a time for self-defense. The United States would punish not just the perpetrators of the attacks, but also those who harbored them. Secretary Powell said the United States had to make it clear to Pakistan, Afghanistan, and the Arab states that the time to act was now. He said we would need to build a coalition. The President noted that the attacks provided a great opportunity to engage Russia and China. Secretary Rumsfeld urged the President and the principals to think broadly about who might have harbored the attackers, including Iraq, Afghanistan, Libya, Sudan, and Iran. He wondered aloud how much evidence the United States would need in order to deal with these countries, pointing out that major strikes could take up to 60 days to assemble.[34]

President Bush chaired two more meetings of the NSC on September 12. In the first meeting, he stressed that the United States was at war with a new and different kind of enemy. The President tasked principals to go beyond their pre-9/11 work and develop a strategy to eliminate terrorists and punish those who support them. As they worked on defining the goals and objectives of the upcoming campaign, they considered a paper that went beyond al Qaeda to

BEST AVAILABLE COPY

THE BERGER CAPER: WHAT THE 9/11 REPORT SAYS

WHEN IT WAS DISCLOSED that former Clinton National Security Adviser Samuel (Sandy) Berger was being investigated by the FBI for removing classified documents from the National Archives, Democrats cried foul, claiming the news was leaked to distract attention from the imminent release of *The 9/11 Commission Report*. The report managed to move Berger's troubles off the front page, but it contained some passages that could surely make him uncomfortable. It describes several instances in which the Clinton adviser was presented with plans of action to hit al-Qaeda in Afghanistan—and balked. In the margin next to a suggestion from Richard Clarke, Berger's counterterrorism czar, to attack al-Qaeda facilities in late 1999, Berger wrote "No." The report also says Berger nixed at least two plans to go after Osama bin Laden in the three years leading up to the Sept. 11 attacks.

The papers he took don't relate to those incidents, and Berger claims he took them inadvertently. To be sure, it's unlikely he thought he could hide anything from those writing the 9/11 report. Berger's spokesman, Joe Lockhart, pointed out that the Archives gave Berger only photocopies of the original documents—and informed Berger of that—so any cover-up would have been impossible. After learning of the incident, commission chairman Thomas Kean said his staff members checked and were sure they had "every single document that [they] needed or requested."

CHRIS MADDALONI—ROLL CALL/POLARIS

The former National Security Adviser: an "honest mistake"?

So how to explain what Berger called an "honest mistake"? He says that in gathering up papers, he must have accidentally taken some Archives documents along with his notes. Those who have worked with him find that plausible. Berger could get wrapped up in his work, they say, and his desk was piled high with documents and notes. "He always kept a lot of paper," says a former assistant. Nonetheless, Berger has now severed his ties as an informal adviser to the Kerry campaign, and a man once touted as a potential Secretary of State has seen his reputation tarnished. —*By Brian Bennett and Michael Weisskopf*

PATRICK KOVARIK—AFP/GETTY

OF THE WEEK

After five consecutive wins in the Tour de France, [illegible] faced daunting challenges this year, including the tenacity of Italy's Ivan Basso. But on the race's alpine stretch, Armstrong claimed the lead, widened it as the cyclists wound their way back toward Paris, and headed for an unprecedented sixth straight victory in the Tour de France, leaving everyone to marvel at his latest tour de force.

An Interfaith Friendship Frayed

FOR NEARLY HALF A CENTURY, FEW interfaith relationships have been sturdier than that between Jews and the Presbyterian Church (U.S.A.). Forged after the Holocaust and during the civil rights movement, the amity reached a high point in 1987, when a Presbyterian "study document" acknowledged the Jews' ongoing and legitimate covenant with God.

Yet a sense of betrayal is building among Jewish groups over two votes at the Presbyterians' recent General Assembly. The first tally sustained funding for "Messianic Jewish" congregations like Avodat Yisrael, a Philadelphia-area Presbyterian gathering that meets Saturdays and gives every appearance of being a synagogue but features New Testament readings. Most Jews consider such entities, often funded by conservative Christian groups, to be a devious way of luring new converts to Christianity. The second vote initiated the church's "phased selective divestment" from some corporations operating in Israel.

Many Jewish leaders regard the two measures as a double-barreled assault on their faith and the Jewish state. Says interfaith veteran Rabbi James Rudin: "They turn back much of the achievement of the last 40 years." But the resolutions actually reflect two different—and mutually hostile—constituencies. The divestment was backed by the liberal Presbyterian majority, which traditionally tempers its affirmation of Israel's right to exist with concern for Palestinian welfare. The margin for continuing Messianic funding was provided by an increasingly powerful evangelical minority. Some church activists seem honestly taken aback by the two measures being linked in controversy. It is, says conservative leader the Rev. Parker Williamson, "a disjunction, almost like frying ice." But apparently even fried ice can exert a chill. —*By David Van Biema*

Andrew Sparks leads a Philadelphia Messianic group

SUBJECT [B]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
MAY 19 2004
THOMAS K. KAHN
CLERK

03-16383-DD

MEREDITH T. RANEY, JR.,

Plaintiff-Appellant,

versus

ALLSTATE INSURANCE COMPANY,
ALLSTATE FLORIDIAN INSURANCE COMPANY,
OCALA WOMEN'S CENTER, INC.,
AWARE WOMAN CENTER FOR CHOICE, INC.,
EDWARD W. WINDLE, JR., et al.,

Defendants-Appellees.

On Appeal from the United States District Court for the
Middle District of Florida

BEFORE: CARNES, BARKETT, and HULL, Circuit Judges.

BY THE COURT:

The motion by Appellees Allstate Insurance Company and Allstate Floridian Insurance Company (collectively "Allstate") to strike Appellant's reply brief is GRANTED.

Allstate's motions for sanctions against Appellant for filing the reply brief is GRANTED to the extent of admonishing counsel for Appellant to refrain from making allegations which are unsupported by the record and which could be construed as accusations of criminal misconduct.

Appellant's motion to strike Allstate's motion to strike, included in Appellant's response to Allstate's motion, is DENIED.

THE FLORIDA BAR

1200 EDGEWATER DRIVE
ORLANDO, FL 32804-6314

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

LAWYER REGULATION DEPARTMENT 407/425-5424
UPL DEPARTMENT 407/425-0473
WWW.FLABAR.ORG

June 9, 2004

Christopher Francis Sapp
1323 Wilderness Ln
Titusville, FL 32796-4217

RE: Inquiry by The Florida Bar
Case No. 2004-31,915(09E)

Dear Mr. Sapp:

Enclosed, please find copies of the United States Court of Appeals', Eleventh Circuit, order, Appellee's motion to strike, and Appellant's reply brief, filed in Appeal No. 03-16383-DD, Raney v. Allstate Insurance Company, et al., the subject of which has given rise to an investigation as to possible attorney misconduct. As a result thereof, the above-referenced file was opened where The Florida Bar is the complainant.

Specifically, you represent plaintiff-appellant Meredith Raney in an appeal of the dismissal of Mr. Raney's RICO complaint. On April 5, 2004, the appellees moved to strike appellant's March 14, 2004 reply brief and requested that appellant be sanctioned. The appellees asserted, in sum and substance, that appellant's brief included "scandalous and fictitious assertions" that were unsupported by the record. Further, the appellees asserted, in sum and substance, that you made unsubstantiated disparaging comments about Circuit Court Judge Vincent G. Torpy, Jr., Eighteenth Judicial Circuit, engaging in a conspiracy with the appellees and others. Despite the assertions contained in your response, dated April 14, 2004, by order dated May 19, 2004, the Court issued an order granting the appellees' motion to strike and their motion for sanctions "to the extent of admonishing counsel for Appellant to refrain from making allegations which are unsupported by the record and which could be construed as accusations of criminal misconduct."

Please respond directly to me in writing within fifteen (15) days of receipt of this letter and present your position. You are obligated to provide the undersigned with a written response pursuant to R. Regulating Fla. Bar 4-8.4(g), and you are required to disclose to the partners and shareholders of your firm the existence and nature of this inquiry. Please fill out and return the enclosed disclosure form, using the above case number on all correspondence to this office.

Further, within fifteen days from the date of this letter, please contact the undersigned by telephone at 407-425-5424 to schedule an appointment to meet with the undersigned at the offices of The Florida Bar, located in Orlando, Florida.

Sincerely,

Kenneth H. P. Bryk
Bar Counsel

KHPB/kb

Enclosure

CHRISTOPHER F. SAPP
Attorney At Law
1323 Wilderness Lane
Titusville, Florida 32796
(321) 268-8758
June 25, 2004

Kenneth H. P. Bryk
Bar Counsel
The Florida Bar
1200 Edgewater Drive
Orlando, Florida 32804-6314

Re: Our Case, *Raney v. Allstate, et al.*
United States Supreme Court, No.: 03-1496
Your inquiry, Case No.: 2004-31,915(09E)

Dear Mr. Bryk,

Your letter of June 9, 2004 is particularly disturbing as it appears to be part of a growing body of evidence that anyone disfavored by the abortion industry cannot receive a fair trial or appeal in the United States Eleventh Circuit. More specifically, the pending petition for review by the United States Supreme Court of the federal racketeering case against two Allstate companies and several members of the abortion industry should include consideration not only deficiencies within the federal trial and appellate courts but their misuse of powers and influence with organizations such as the Florida Bar.

The Eleventh Circuit received an unsigned "motion" from Allstate seeking to strike the appellants' reply brief in the *Raney* appeal of an adverse trial decision in the present RICO case. While Allstate, through its attorneys, should have corrected this failure, they did not do so. The clerk of the Eleventh Circuit should never have filed the "motion".

The particular assertions which were contested dealt with Judge Vince Torpy's role in the predicate lawsuit filed by Allstate against Mr. Raney in Brevard County, Florida. That lawsuit was a matter of judicial notice in the resulting RICO action. The papers and pleadings in the predicate Brevard County action support directly or

by reasonable inference all of my statements concerning Judge Vince Torpy.

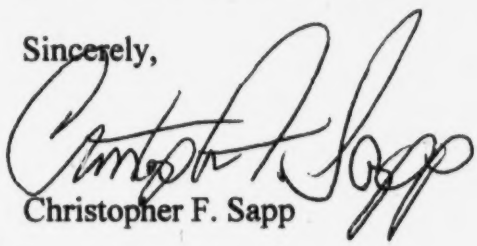
Additionally, after I moved to strike the Allstate "motion", not one single appellee contested my motion. Apparently, it was clear to everyone concerned that Allstate's paper was a sham and was untrue.

Your assertion that the "motion" was filed by "the appellees" is incorrect. It was submitted by Allstate but was never adopted by the other five appellees.

Given that two of the judges at the Eleventh Circuit who participated in the order to strike the reply brief had been previously requested to disqualify themselves from this case and had refused to do so, the decision to strike the reply brief was consistent. Consistent with the serious corruption which, I believe, exists within the Eleventh Circuit.

I will ask the United States Supreme Court to include the Florida Bar's inquiry as part of the case review sought under Rule 11 in the above-referenced petition to that Court. Copies will also be sent to the United States Department of Justice.

Sincerely,



Christopher F. Sapp

CFS/js
sent by U.S. Mail Express Service

CHRISTOPHER F. SAPP
Attorney At Law
1323 Wilderness Lane
Titusville, Florida 32796
(321) 268-8758
June 28, 2004

Honorable John Ashcroft
Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Re: United States Court of Appeal,
Eleventh Circuit

Dear Attorney General Ashcroft,

Judges at the United States Court of Appeal for the Eleventh Circuit appear to be improperly hindering my efforts to have the United States Supreme Court review a controversial situation involving that appellate court.

Copies of recent correspondence with The Florida Bar are enclosed. Considerably more information is available.

Will you please forward this information to the appropriate bureau or agency for investigation and appropriate action? Thank you.

Please let me know if I can help in any way.

Respectfully,

Christopher F. Sapp

CFS/js
enclosures

CHRISTOPHER F. SAPP
Attorney At Law
1323 Wilderness Lane
Titusville, Florida 32796
(321) 268-8758
June 25, 2004

Kenneth H. P. Bryk
Bar Counsel
The Florida Bar
1200 Edgewater Drive
Orlando, Florida 32804-6314

Re: Our Case, *Raney v. Allstate, et al.*
United States Supreme Court, No.: 03-1496
Your inquiry, Case No.: 2004-31,915(09E)

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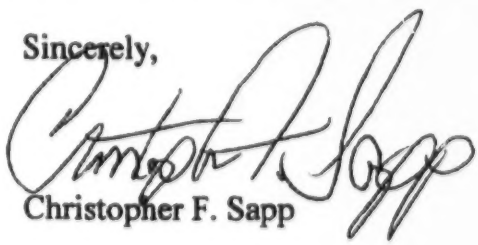
Sincerely,



Christopher F. Sapp

CFS/js
sent by U.S. Mail Express Service

THE FLORIDA BAR

1200 EDGEWATER DRIVE
ORLANDO, FL 32804-6314

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

LAWYER REGULATION DEPARTMENT 407/425-5424
UPL DEPARTMENT 407/425-0473
WWW.FLABAR.ORG

June 9, 2004

Christopher Francis Sapp
1323 Wilderness Ln
Titusville, FL 32796-4217

RE: Inquiry by The Florida Bar
Case No. 2004-31,915(09E)

Dear Mr. Sapp:

Enclosed, please find copies of the United States Court of Appeals', Eleventh Circuit, order, Appellee's motion to strike, and Appellant's reply brief, filed in Appeal No. 03-16383-DD, Raney v. Allstate Insurance Company, et al., the subject of which has given rise to an investigation as to possible attorney misconduct As a result thereof, the above-referenced file was opened where The Florida Bar is the complainant.

Specifically, you represent plaintiff-appellant Meredith Raney in an appeal of the dismissal of Mr. Raney's RICO complaint. On April 5, 2004, the appellees moved to strike appellant's March 14, 2004 reply brief and requested that appellant be sanctioned. The appellees asserted, in sum and substance, that appellant's brief included "scandalous and fictitious assertions" that were unsupported by the record. Further, the appellees asserted, in sum and substance, that you made unsubstantiated disparaging comments about Circuit Court Judge Vincent G. Torpy, Jr., Eighteenth Judicial Circuit, engaging in a conspiracy with the appellees and others. Despite the assertions contained in your response, dated April 14, 2004, by order dated May 19, 2004, the Court issued an order granting the appellees' motion to strike and their motion for sanctions "to the extent of admonishing counsel for Appellant to refrain from making allegations which are unsupported by the record and which could be construed as accusations of criminal misconduct."

Please respond directly to me in writing within fifteen (15) days of receipt of this letter and present your position. You are obligated to provide the undersigned with a written response pursuant to R. Regulating Fla. Bar 4-8.4(g), and you are required to disclose to the partners and shareholders of your firm the existence and nature of this inquiry. Please fill out and return the enclosed disclosure form, using the above case number on all correspondence to this office.

Further, within fifteen days from the date of this letter, please contact the undersigned by telephone at 407-425-5424 to schedule an appointment to meet with the undersigned at the offices of The Florida Bar, located in Orlando, Florida.

Sincerely,

Kenneth H. P. Bryk
Bar Counsel

KHPB/kb

Enclosure

THE FLORIDA BAR

1200 EDGEWATER DRIVE
ORLANDO, FL 32804-6314

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

LAWYER REGULATION DEPARTMENT 407/425-5424
UPL DEPARTMENT 407/425-0473
www.FLABAR.org

July 1, 2004

Michael L. Irwin, Chair
Grievance Committee 9E
545 Delaney Ave Bldg 5
Orlando, FL 32801

RE: Complaint by The Florida Bar
Against Christopher Francis Sapp
Case No. 2004-31,915(09E)

Dear Mr. Irwin:

This is to advise that the above-referenced matter has been forwarded to your committee for further investigation and disposition.

The matter is now pending at grievance committee.

Sincerely,

Kenneth H. P. Bryk
Bar Counsel

KHPB/kb

Enclosure

cc: Christopher Francis Sapp - w/o enclosure
1323 Wilderness Ln
Titusville, FL 32796-4217

IN THE SUPREME COURT OF FLORIDA
(Before a Grievance Committee)

THE FLORIDA BAR,

Complainant,

vs.

CHRISTOPHER FRANCIS SAPP,

Respondent.
_____/

TFB Case No. 2004-31,915(09E)

NOTICE OF ASSIGNMENT OF INVESTIGATING MEMBER AND/OR PANEL

To Complainant:
The Florida Bar

To Respondent:
Christopher Francis Sapp
1323 Wilderness Ln
Titusville, FL 32796-4217

Tele: 321/268-8758

Receipt of a complaint on May 27, 2004, against respondent is acknowledged. The complaint has been given the above case number and is hereby assigned to the following member of the committee for investigation:

Scott A. Cookson
8403 South Park Circle
Orlando, FL 32801
Telephone: 321-354-2500

Notice is given that this case will be considered by the committee.

Respondent and complainant shall contact the investigating member within ten (10) days from the date of this notice to discuss the investigation and disposition of this complaint.

DATED this 1st day of July, 2004.

Kenneth H. P. Bryk
Bar Counsel

Copies furnished to:
1. Michael L. Irwin, Chair
2. Designated Reviewer for the committee
3. Scott A. Cookson, Investigating member (with file)
4. Respondent
5. Complainant

CHRISTOPHER F. SAPP
Attorney At Law
1323 Wilderness Lane
Titusville, Florida 32796
(321) 268-8758
July 7, 2004

Scott A. Cookson
8403 South Park Circle
Orlando, Florida 32801

Re: Our Case, *Raney v. Allstate, et al*
United States Supreme Court, No.: 03-1496
Your inquiry, Case No.: 2004-31,915 (09E)

Dear Mr. Cookson,

Please send me copies of all papers and or items in The Florida Bar file referenced above. Also, please furnish me with recaps of any conversations you have had concerning this matter.

Thank you for your prompt attention to my request.

Sincerely,

Christopher F. Sapp

CFS/js

CHRISTOPHER F. SAPP
Attorney At Law
1323 Wilderness Lane
Titusville, Florida 32796
(321) 268-8758
August 3, 2004

Scott A. Cookson
8403 South Park Circle
Orlando, Florida 32801

Re: Our Case: *Raney v. Allstate, et al*
United States Supreme Court, No.: 03-1496
Your inquiry, Case No.: 2004-31,915 (09E)

Dear Mr. Cookson,

A copy of my letter to you dated July 7, 2004 is attached for your reference.

Please immediately furnish me all of the items requested in the July 7 letter.

Thank you.

Sincerely,

Christopher F. Sapp

CFS/js
sent by U.S. Mail, Express Service

SUBJECT [C]

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
NO. 98-5-CV-ORL-19C

AWARE WOMAN CENTER FOR CHOICE, INC,
a Florida corporation,
on its own behalf and for the class of patients,
patient companions, staff, physicians,
invitees, owners, and independent contractors,

PATRICIA BAIRD WINDLE,
EDWARD W WINDLE, JR,
TIFFANY POE, DON POE, GRANDFATHER POE,
and the classes of
JANE POE I-M (1-1000), and JOHN POE I-M,

Plaintiffs,

-versus-

MEREDITH T RANEY, JR,
individually and holding himself out as
WOMEN'S LEGAL ACTION COALITION, and
CHRISTIANS FOR LIFE,
unincorporated associations,
participating in concert with one another,

WILLIAM LESTOURGEON,
ALLEN LESTOOURGEON,
JOHN C 'JAY' ROGERS,
MARK STEVEN HALL,
PATRICIA McEWEN,

CHERYL PALMER,
CHRISTINE JAGOS,
DOLLY EDWARDS,
ALLEN MUNROE,
NORMA MUNROE,

INJUNCTIVE RELIEF SOUGHT
JURY TRIAL REQUESTED ON DAMAGES
CLASS ACTION RELIEF

RICHARD DEAN,
CECELIA STANBACK,
PAT PINKSTON,
NANCY LALLY,
LUTHER LAITE,
ANNE BLACKBURN,

NIGHTSTALKER DOE,
JANE DOEs and JOHN DOEs I-XX,

COMPUSERVE, INCORPORATED,
a corporation doing business in Florida,

AMERICA ONLINE, INC,
a corporation doing business in Florida,
and parent successor to COMPUSERVE, INC,

TML INFORMATION SERVICES, INC,
a corporation doing business in Florida,

DOE CORPORATIONS I-XX,
their agents, assigns, successors in interest,
those acting in concert or participating with them,
all those having actual or constructive
notice of any injunctive orders issued herein,
and the class of individuals and entities similarly
situated as to the named defendants,

Defendants.

COMPLAINT OF AWCC *et al:* CIVIL CLASS ACTION
FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF
UNDER F.A.C.E., 18 USC §248, FDPPA, 18 USC §2721,
AND SUPPLEMENTAL FEDERAL & STATE LAW GROUNDS
INJUNCTIVE RELIEF SOUGHT
JURY TRIAL REQUESTED ON DAMAGES
CLASS ACTION RELIEF SOUGHT

NOTICE AND SERVICE

(20) An order providing that each and every provision of the injunction shall bind any and all persons having actual or constructive notice thereof, and that notice shall be provided by an appropriate sign in the vicinity, and proof of notice may be made by delivery of said injunction in writing or verbally to any person appearing in the vicinity to be at risk of a violation of any kind., said person to be notified and allowed to cease and desist prior to arrest.

DAMAGES, FORFEITURE, WORK

196. AWCC, each plaintiff, and each class member further respectfully urge the Court to award:

(1) appropriate actual, statutory, and exemplary damages as proven on each applicable count against each and every defendant, jointly and severally as well as reasonable costs, interest, expert witness fees, counsel fees and all other reasonable and necessary litigation expenses.

(2) forfeiture of sufficient and relevant assets of real and personal property of the defendants used in their unlawful and tortious activities.

(3) appropriate work orders requiring certain individual defendants to engage in lawful employment pursuits to pay off and satisfy these damages and judgment debts.

(4) orders setting aside real and personal property transfers made by defendants to avoid responsibility for the unlawful and tortious misconduct involved herein, and

(5) such other relief as shall be necessary and appropriate.

RESPECTFULLY SUBMITTED:

Roy Lucas

Roy Lucas, Esq
DC # 153957
c/o PO Box 1433
Melbourne, FL 32902-1433

TEL: 1-407-725-2413
FAX: 1-407-725-3847

Susan England, Esq
FL # 0186018
2805 Lakeview Drive
Fern Park, FL 32730

TEL: 1-407-339-4600
FAX: 1-407-331-3006

Scott R Rost
FL # 779385
228 Park Ave North
Winter Park, FL 32789
TEL: 1-407-539-1140
FAX: 1-407-539-1126

ATTORNEYS FOR AWCC *ET AL* PLAINTIFFS.

{Service to be effectuated}

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
NORTHERN DIVISION

NO. 99-8164

CIV - HURLEY

MANHATTAN MAGNOLIA CORP.,
a Florida corporation, t/a
AWARE WOMAN MEDICAL CENTER;

MAGISTRATE JUDGE

AWARE WOMAN CENTER FOR CHOICE, INC.,
a Florida corporation;

MAGISTRATE JUDGE
LYNCH

EDWARD W. (TODD) WINDLE, III, WENDY LaVIGNA,
ELLEN MORITZ, CHERYL PFAU, and
SHARON BRANIN,

individually, and on behalf of the classes
of patients, staff, physicians, invitees, guests,
and independent contractors
damaged by defendants,

Plaintiffs,

-versus-

CLASS RELIEF SOUGHT

TRIAL BY JURY REQUESTED

RAYMOND UNTERBURGER,
ERIC OLSON,
CHERYL UNTERBURGER,
MEREDITH TROTTER RANEY, JR,
WILLIAM LeSTOURGEON,

JOHN C 'JAY' ROGERS,
PATRICIA McEWEN,
RICHARD VANDERBILT,
PATRICIA VANDERBILT,
MICHELLE HERZOG, and

JOHN & JANE DOES & MOES I-X,

COMPUSERVE, INCORPORATED,
a corporation doing business in Florida,

TML INFORMATION SERVICES, INC,
a corporation doing business in Florida, and

DOE CORPORATIONS I-X,
their agents, assigns, collaborators, accomplices, confederates, aiders & abettors, successors in interest, those acting in concert or participating with them, and the class of individuals and entities similarly situated as to the named defendants,

Defendants.

COMPLAINT IN CIVIL ACTION FOR DECLARATORY JUDGMENT, STATUTORY & ACTUAL DAMAGES, ASSET FORFEITURE, AND EXEMPLARY DAMAGES, UNDER FACE, 18 USC §248, RICO, 18 USC §1961-1968, AND SUPPLEMENTAL FEDERAL & STATE LAW GROUNDS, AND OTHER NECESSARY AND PROPER RELIEF

Plaintiffs Manhattan Magnolia Corp., *et al* ["MAGNOLIA" may hereafter designate all plaintiffs and classes for brevity], bring this civil action for declaratory relief, statutory and actual personal, property, and business damages, exemplary damages, physical and emotional damage and suffering, forfeiture of assets, vehicles, buildings & things used in defendants' crimes and torts, costs and fees, and other necessary & appropriate relief & compensation, and respectfully state their complaint as follows:

115. Magnolia & AWCC associates and threatened individuals who drive in and out of the Magnolia parking areas are irreparably injured and damaged by the foregoing acts and omissions. None of these individuals has an adequate opportunity, means, or notice to prevent release and unlawful use of this information against them, nor to stop the compilation and reckless use of a "blackmail database" by Raney, LeStourgeon, and their confederates against them.

116. The public interest favors protection of private personal information from potential stalkers and abusers, over the practice by State DMVs and computer database entities of profiting from the unrestrained sale of such information to individuals such as Raney and his confederates.

COUNT X: CIVIL RICO VIOLATIONS

117. Defendants and each one of them with sufficient predicate acts are jointly and severally responsible and liable under RICO for damages caused by their engaging in an unlawful conspiracy, and consorting with one or more unlawful enterprises against plaintiffs, and are thereby subject to penalties of treble damages and asset forfeiture.

COUNT XI: EXEMPLARY DAMAGES, FORFEITURE, WORK

118. Certain reckless misconduct and omissions by defendants have been sufficiently reckless, wanton,

outrageous, inhumane, and malicious to warrant substantial exemplary damages awards against each and every defendant on behalf of each and every plaintiff and class member.

119. Said exemplary damage awards should be made sufficient to deter each defendant forever, and punish and prevent each said defendant from continuing the misconduct at issue, directly or indirectly, in any form, long into the future.

120. Defendants such as Raney, LeStourgeon, and Rogers, who have worked primarily at harassing women and terrorizing health care facilities for these many years, should have their harassment-related assets, property and buildings forfeited, and be ordered to work using any real world skills they may have to satisfy the foregoing requested judgments, and to break loose from their cult-like patterns of unlawful, tortious, delusional, and irrational law-breaking behavior.

VII. TRIAL BY JURY REQUESTED

121. Plaintiffs request trial by jury on each issue of fact and damages as would be required under the common law and the usual practice of this Court.

VIII. JUDGMENT AND RELIEF REQUESTED

WHEREFORE, PLAINTIFFS RESPECTFULLY REQUEST THE

COURT

(1) to enter judgment against each defendant, jointly and severally, for full actual, statutory, punitive, and treble damages, in excess of $50 million, or as proven,

(2) to forfeit sufficient and relevant assets and real & personal property of the defendants that has been used in or facilitated their unlawful activities,

(3) to award pre- and post-judgment interest on appropriate items of damages and costs,

(4) to enter appropriate work orders requiring certain individual defendants to engage in lawful employment pursuits to pay off these damages and judgment debts,

(5) to set aside property transfers made by defendants in recent years which were undertaken specifically to avoid responsibility for unlawful conduct such as involved here,

(6) to award reasonable costs, expenses, expert witness fees & expenses, and attorneys' fees and expenses, as well as any other relief that appears to be necessary and appropriate.

RESPECTFULLY SUBMITTED:

Roy Lucas

Roy Lucas
DC #153957
Trial Counsel
c/o PO Box 1433
Melbourne, FL 32902

TEL: (407) 725-2413
FAX: (407) 725-3847
E-Mail: OwlLawyer@AOL.com

Scott R Rost
Wasserman & Walters
228 Park Ave North
Winter Park, FL 32789

TEL: (407) 539-1140
FAX: (407) 539-1126

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

NO. 98-371-CV-OC-Judge Hodges

JAX

OCALA WOMEN'S CENTER, INC.,
a Florida corporation, and
JAMES S. PENDERGRAFT, M.D.,
on their own behalves and for the class of
patients, staff, and associated physicians,

Plaintiffs,

-versus-

INJUNCTION REQUESTED

CLASS ACTION RELIEF

JURY REQUESTED

CITY OF OCALA, FLORIDA,
MORREY DEEN, Chief of Police,
COUNTY OF MARION, FLORIDA,

HORACE "ED" DEAN, Sheriff,
KEN ERGLE, former Sheriff,

A410

EDWARD JAMES MARTIN SR aka "ED MARTIN,"
MEREDITH TROTTER RANEY, JR,
All individuals acting in concert, and or participating with,
any named Defendant, and all individuals having actual or
constructive notice of any injunctive order from this Court,

and JOHN and JANE DOES I-X, individuals and all other forms
& entities of defendants not yet known by name, participating
with any other named or unnamed defendant,

Defendants.

COMPLAINT IN CIVIL ACTION FOR DECLARATORY JUDGMENT,
INJUNCTIONS, ACTUAL-STATUTORY-EXEMPLARY DAMAGES,
FORFEITURE OF PROPERTY USED,
AND OTHER NECESSARY & APPROPRIATE RELIEF

---

(17) Such other preliminary and permanent injunctive relief as shall appear necessary and appropriate.

FORFEITURE OF ASSETS

(18) An order forfeiting to plaintiffs any and all personal and real property and assets used by any defendant directly or indirectly in furtherance of any tortious event adversely affecting any plaintiff or member of plaintiffs' classes.

(19) An order voiding any and all transfers of assets, real and or personal property, made by any defendant since the passage of FACE in 1994, and designed to conceal or avoid responsibility for damages caused by any of the activities complained of in this civil action, and further forfeiting said property to plaintiffs.

WORK ORDERS

(20) Orders directing defendants into real work programs to pay off any and all judgments, and to divert them from further tortious and criminal violations.

A449

NOTICE AND SERVICE

(21) An order providing that each and every provision of the injunction shall bind any and all persons having actual or constructive notice thereof, and that notice shall be provided by appropriate signs and warnings in the OWC vicinity, and proof of notice may be made by delivery of said injunction in writing or verbally to any person appearing in the vicinity to be at risk of a

violation of any kind.

DAMAGES, COSTS & FEES

(22) All reasonable actual, statutory, and exemplary damages proven by a preponderance of the evidence at trial.

(23) An order awarding reasonable costs, interest, expert witness fees, counsel fees, reasonable and necessary litigation costs & expenses, and such other appropriate relief as may be proved to be necessary or proper at trial and upon other hearings and submissions.

RESPECTFULLY SUBMITTED:

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